

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JANIE SAMUEL, AS ADMINISTRATOR OF THE ESTATE OF CATHY LYNN TUBBS, et al.,	:	Case No. C-1-02-378
	:	Judge Michael R. Barrett
Plaintiffs,		
-vs-		
STEVEN M. HOOG, et al.,	:	<u>JOINT MOTION TO VACATE TRIAL</u>
Defendants.	:	<u>DATE AND MODIFY SCHEDULING</u>
	:	<u>ORDER</u>

Plaintiffs, Janie Samuel, et al. and Defendants Steven M. Hoog, et al., hereby jointly move for an order modifying the scheduling order in order to allow for an extension of the trial schedule and the establishment of a scheduling order with preliminary case management dates.

A memorandum in support is attached hereto and a proposed Order will be sent to the Court's general e-mail address at [barrett\\_chambers@ohsd.uscourts.gov](mailto:barrett_chambers@ohsd.uscourts.gov) for the Court's consideration.

Respectfully submitted,

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per auth.)  
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**JANIE SAMUEL,  
AS ADMINISTRATOR OF  
THE ESTATE OF  
CATHY LYNN TUBBS, et al.,**

**Case No. C-1-02-378**

**Judge Michael R. Barrett**

**Plaintiffs,**

**-vs-**

**STEVEN M. HOOG, et al.,**

**MEMORANDUM IN SUPPORT OF  
JOINT MOTION TO VACATE TRIAL  
DATE AND MODIFY SCHEDULING  
ORDER**

**Defendants.**

Plaintiffs, Janie Samuel, et al. and Defendants Steven M. Hoog, et al., hereby jointly move for an order vacating the trial date and modifying the scheduling order in order to allow sufficient time for the parties to conduct discovery.

Although this case has been pending for some time, the parties have only had the opportunity to conduct limited discovery. Defendants filed a motion to dismiss Plaintiffs' claims on July 29, 2004 based, among other things, upon a claimed right to qualified immunity. No discovery was conducted or could proceed pending the resolution of this motion. The Court's Order denying Defendant's Motion to Dismiss was entered March 14, 2005. Defendants subsequently appealed the Court's denial of the motion to dismiss. The parties engaged in mediation through the Sixth Circuit's mediation office, but were unable to reach a settlement in this matter. The appeal was dismissed on April 19 of this year.

Both parties have responded to discovery deposition requests and nine depositions have been taken to date. Additional discovery and time in order to prepare for trial is needed, however. The parties therefore jointly request that the Court vacate the current trial date and scheduling order to permit a reasonable period in which to conduct discovery and prepare for trial. The parties request that the trial of this matter be set for September 27, 2007, or as soon thereafter as is convenient for the Court.

Respectfully submitted,

s/ Peter J. Stackpole (by Ward Washington  
per auth.)

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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF which will send notification of such filing to Peter J. Stackpole, Esq., City of Cincinnati Solicitor's Office, 801 Plum Street, Room 214, Cincinnati, OH 45202; and Kimberly A. Rutowski, Esq., Hardin Lefton Lazarus & Marks LLC, 30 Garfield Place, Suite 915, Cincinnati, OH 45202.

s/ Ward B. Washington

Ward B. Washington